U.S. Department
of Transportation
**Federal Aviation
Administration**

Great Lakes Region
2300 East Devon Avenue
Des Plaines, IL 60018

APR 17 2013

Mr. Richard S. Porter
Mr. Jon S. Faletto
Hinshaw & Culbertson LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105

Dear Messrs. Porter and Faletto,

Thank you for your letter dated October 4, 2012, on behalf of the City of Park Ridge. The Federal Aviation Administration (FAA) has reviewed your letter and believes FAA's February 23, 2012 letter has previously addressed the majority of your concerns. The FAA appreciates the opportunity to address the concerns of the residents of Park Ridge related to the O'Hare Modernization and takes its environmental commitments and obligations seriously. However, your October 4, 2012 letter has not provided sufficient information to warrant a supplement to the O'Hare Modernization Final Environmental Impact Statement. Please see the enclosure which details how we reached that conclusion.

Sincerely,

Barry D. Cooper
Regional Administrator
Great Lakes Region

Enclosure
FAA Response to the City of Park Ridge Request

Enclosure

**FAA Response to the City of Park Ridge Request Dated October 4, 2012**

The FAA incorporates by reference our letter dated February 23, 2012 which we believe addressed the majority of your issues. This response will address issues not raised previously and will address them in the order presented in your October 4, 2012 letter.

1) Park Ridge has Misconstrued FAA Orders Regarding Written Re-Evaluations

First, the purpose of FAA Orders 1050.1E and 5050.4B is to inform and guide FAA personnel, airport sponsors, project applicants and others regarding the preparation and processing of environmental documents. Second, the FAA reiterates its position in our letter dated February 23, 2012. Park Ridge continues to misuse terminology and contend that the O'Hare Modernization is "staged." The O'Hare Modernization is **not** staged—it is "phased" as explained within the FAA's Record of Decision (ROD) for O'Hare Modernization that was issued on September 30, 2005, the O'Hare Modernization Final Environmental Impact Statement (FEIS), Section 4(f) and Section 6(f) Evaluation, and the General Conformity Determination issued on July 27, 2005. Contrary to Park Ridge's characterization, FAA's position is not "semantics," but rather an attentive, careful and thorough analysis of information consistent with the process and procedures contained within its environmental orders. Further, the FAA's process reflects how NEPA is followed as guided by the Council on Environmental Quality (CEQ) and its implementing regulations (40 CFR Part 1500 et. seq.).

Finally, FAA Order 1050.1E, ¶514b(2) states that "if the proposed action is to be implemented in stages or requires successive Federal approvals, a written re-evaluation of the continued adequacy, accuracy, and validity of the FEIS will be made at each major approval point that occurs more than three years after approval of the FEIS and a new or supplemental EIS prepared, <u>if necessary</u>." (Emphasis added). The O'Hare Modernization is phased and FAA's September 30, 2005 ROD **approved** the O'Hare Modernization. Besides approving Chicago's O'Hare Modernization, the FAA's September 30, 2005 ROD explained its environmental analysis and determinations about the airport layout plan (ALP) and other related issues, as required by the National Environmental Policy Act (NEPA), the Clean Air Act (CAA), and other applicable statutes, regulations and executive orders. Likewise, the ROD made a number of other determinations bearing upon the OMP's eligibility for funding under the Airport and Airway Improvement Act of 1982 (AAIA) as well as the FAA's environmental determinations concerning the OMP's eligibility for Passenger Facility Charge (PFC) funding under 49 U.S.C. section 40117. In sum, FAA's approval given in the 2005 ROD as to the ALP revision authorized Chicago to implement the O'Hare Modernization.

In essence, your October 2012 letter argues that the FAA's February 2012 response is insufficient because the FAA does not consider the O'Hare Modernization to be "staged." The FAA's response, although probably disappointing to you, was detailed and explained why the O'Hare Modernization is not staged. Since the O'Hare Modernization is not staged and your letter has not demonstrated that the FAA's environmental review and analysis in its September 30, 2005 ROD and associated FEIS are deficient in any of the numerous respects set forth in your October 2011 and 2012 letters, there is no requirement for an SEIS or a Written Re-evaluation. The FAA, therefore, declines your requests. At the same time, the FAA notes that since issuing its September 30, 2005 ROD for its July 2005 FEIS, the City of Chicago has continuously undertaken major steps to implement the O'Hare Modernization. Further, in the attachment to FAA's February 23, 2012 response letter, the FAA indicated its intent to review additional runway construction schedule modifications provided by Chicago resulting from the 2011 settlement of a state court lawsuit between Chicago and the airlines. (See Enclosure to FAA's February 23, 2012 response letter, footnote 4, page 2) Completely unrelated to the broad array of contentions asserted in your October 2011 and October 2012 letters, the FAA has decided that its review will be a Written Re-evaluation of the Final Environmental Impact Statement for the O'Hare Modernization to address potential impacts resulting from the schedule modification for new Runway 9C-27C and the Runway 9R-27L extension. Chicago has issued a Request for Qualifications for Professional Services to assist the FAA in the preparation of the Written Re-evaluation. The analysis will be conducted in accordance with FAA Order 1050.1E, Change 1, Environmental Impacts: Policies and Procedures, ¶¶515a and b, and FAA Order 5050.4B, National Environmental Policy Act Implementing Instructions for Airport Actions, ¶1401c. Additionally, the FAA has decided there will be an opportunity for the public to comment on the Written Re-evaluation and the FAA will include your office on the mailing list.

2) The FAA Approved the Proposed Northeast Cargo Area Improvements in the FONSI/ROD issued on November 6, 2008.

FAA's February 23, 2012 letter invited Park Ridge to provide "any additional information that reflects significant changes to the proposed project that are relevant to the environmental considerations so that they may be considered with specificity." In response, Park Ridge's October 4, 2012 letter has referenced the "Proposed Northeast Cargo Area Improvements." These improvements were approved when the FAA issued a Finding of No Significant Impact/Record of Decision (FONSI/ROD) on November 26, 2008. The Notice of Availability of the FONSI/ROD was published in the Federal Register on December 18, 2008. (73 FR 77100) Therefore, the FONSI/ROD was final and reviewable when issued and the time to challenge the FONSI/ROD has—similar to Park Ridge's efforts to challenge the FAA's environmental determinations, as reflected, in the FAA's ROD for the O'Hare Modernization—long since passed (49 U.S.C. section 46110).

The improvements were proposed after the issuance of the ROD for the O'Hare Modernization. The improvements have independent utility from the O'Hare Modernization, and as such, a separate environmental assessment was prepared. The existing cargo facilities at O'Hare did not provide sufficient aircraft ramp space with co-located warehouse facilities to allow for the efficient handling and processing of cargo while also meeting increasing cargo security requirements. Additionally, consistent with the FEIS for O'Hare Modernization, several existing cargo operators with facilities in the Southwest Cargo Area at O'Hare would be receiving new, larger aircraft that they plan to operate at O'Hare. Due to their size, these aircraft cannot be accommodated at the existing Southwest Cargo Area without disrupting these operations. These proposed improvements were provided to FAA six years after the City proposed the O'Hare Modernization.

Contrary to Park Ridge's characterizations, the November 26, 2008 FONSI/ROD identified the proposed improvements as the development of "a consolidated cargo complex that groups multiple cargo warehouses around a shared apron with airfield access, parking/truck docks, and landside access over approximately 122 acres in the Northeast Quadrant/former military area of the existing airfield." (FONSI/ROD, "I. Proposed Action", Page 1, Paragraph 1.) Furthermore, "[t]he entire cargo ramp area will be collected for storage and ultimate treatment by the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC), when water quality conditions require it, unlike today in which only half of the existing cargo ramp is collected." (Id., "V Environmental Mitigation—Water Quality," Page 6, Paragraph 1). Since a greater portion of land use in the Northeast Quadrant of the Airport would be for warehouses, there would be a decrease in peak hour traffic compared to the estimated uses in the Final EIS. As such, this could potentially result in lessening the impacts identified in the Final EIS at the Bessie Coleman Drive/Higgins Road intersection. The description of the proposed action, identification of all germane facts, analysis of the environmental impacts and the FAA's conclusions, as set forth in its November 26, 2008 FONSI/ROD are accurate and complete.

3) The FAA Will Not Exercise Its Discretion and Prepare an SEIS

The FAA has once again carefully considered your requests to prepare a SEIS for the O'Hare Modernization, declines your reiterated request and directs Park Ridge to the FAA's previous explanation in its February 23, 2012 letter. (Enclosure, Pages 1 through 10).

4) Noise Contours

FAA's February 23, 2012 letter included a detailed discussion of FAA's position on noise contours. Your October 4, 2012 letter continues to show a misunderstanding of FAA's noise metrics and methodologies. Your letter mistakenly contends that the noise contours "are based on hypothetical inputs, which results remain unconfirmed, according to the FAA." Please provide the basis for this inaccurate assessment, as well as the page/line

citation(s) within the enclosure to FAA's February 23, 2012 letter where you contend that the FAA has stated that its noise contours are based on hypothetical inputs and that the FAA's results remain unconfirmed. On the other hand, if this is an attempt to advocate on behalf of your client, your statement is an inaccurate description of the process and contains an incorrect conclusion. The Integrated Noise Model (INM) is the computer model approved by the FAA to evaluate aircraft noise impacts in the vicinity of airports. (See FAA's February 23, 2012 letter, Enclosure, Page 7, Paragraph 2, through Page 10, first full paragraph.)

5) Air Quality

Your letter next discusses air quality concerns that were previously addressed by FAA in detail in our February 23, 2012 letter. (See FAA's February 23, 2012 letter, Enclosure Page 3, Paragraph 1, through Page 7, Paragraph 3.) Your October 4, 2012 letter does not explicitly challenge the FAA's detailed response to the air quality points raised in your October 6, 2011 letter. Instead, your letter attempts to recast the FAA's response by stating that "the FAA focuses on numerical changes to National Ambient Air Quality Standards for Ozone (NAAQS) [sic], but fails to account for the rationale underlying the more stringent standards." Your letter also claims that "since the EIS does not address the information which instigated promulgation of new NAAQS standards, it does not adequately address the USEPA's determinations as to the maximum concentration of pollution allowed in ambient air to protect human health and the environment, and the FAA must consider this new information in an SEIS." FAA is not aware of any environmental regulations that require a federal agency to analyze how EPA determines NAAQS standards within an environmental review. Further, your comment seeks action duplicative of the EPA's public rulemaking process before it proposed changes to the NAAQS standards. Finally, technical information related to why NAAQS are changed is generally reviewed openly during the EPA's rulemaking process. To the extent helpful, we provide the following links to examples of the EPA Federal Register Notices for Final Rules for air quality:

EPA, 40 CFR Parts 50 and 58, National Ambient Air Quality Standards for Ozone, Final Rule. http://www.epa.gov/ttn/naaqs/standards/ozone/fr/20080327.pdf

EPA, 40 CFR Part 50, National Ambient Air Quality Standards for Particulate Matter, Final Rule. http://www.epa.gov/ttn/naaqs/standards/pm/data/fr20061017.pdf

EPA, 40 CFR Parts 50 and 58, National Ambient Air Quality Standards for Nitrogen Dioxide, Final Rule. http://www.epa.gov/ttn/naaqs/standards/nox/fr/20100209.pdf

Information is also available on the EPA website (www.epa.gov) which has links to additional sites dedicated to air quality issues. These web pages may provide further insight and guidance in response to your questions on why certain NAAQS were changed.

Conclusion

As explained in the FAA's February 23, 2012 response, after the ROD has been issued "an agency need not supplement an EIS every time new information comes to light." An SEIS is only required if the agency makes substantial changes in the proposed action relevant to the environmental concerns, or if significant new information arises that will affect the quality of the environment "in a significant manner or to a significant extent not already considered." Marsh v. Oregon Natural Resources Council, 490 U.S. 360, 374 (1989). After careful consideration of your October 4, 2012 letter, the FAA has determined that your letter did not provide sufficient information to warrant the preparation of a supplement to the O'Hare Modernization Final Environmental Impact Statement.